



Appeal Decision

Site visit made on 13 January 2015

by Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 January 2015

Appeal Ref: APP/Q1445/A/14/2228623
146 Islingword Road, Brighton BN2 9SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Nigel Hughes against Brighton & Hove City Council.
 - The application Ref BH2013/03755, is dated 9 November 2013.
 - The development proposed is the demolition of a single storey commercial building and its replacement with a domestic dwelling house.
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Application for Costs

1. An application for costs was made by Mr Nigel Hughes against Brighton & Hove City Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for the demolition of a single storey commercial building and its replacement with a domestic dwelling house at 146 Islingword Road, Brighton BN2 9SH in accordance with the terms of the application, Ref BH2013/03755, dated 9 November 2013, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matter

3. The appeal was lodged on the basis of the Council failing to determine the application within the prescribed period. Despite being prompted on two occasions the Council has not submitted any statement in connection with the appeal and therefore in the absence of any decision notice I have no information as to the Council's position in relation to the appeal. I have therefore determined the appeal based on the planning merits of the case as I see them and the information that is before me.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the area and whether it would preserve or enhance the character or appearance of the Conservation Area; the effect of the proposal on the setting of the nearby listed buildings; whether the proposal would provide satisfactory
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accommodation for future occupants; and the effect of the proposal on the living conditions of occupiers of nearby residential properties.

Reasons

Character and appearance and impact on Conservation Area and setting of listed buildings

5. The appeal site comprises a compact rectangular area of land on the corner of Islingword Road and Hannover Mews. It is currently occupied by a single storey flat roofed building which was used for commercial purposes but appears to have been vacant for some time. Adjoining on the north west side is a small electricity substation and beyond that a parking area for a terraced row of almshouses. The latter are Grade II listed dating from the C18. To the south east is a terrace of 2 and 3 storey properties whilst to the rear of those is Hannover Mews, a modern 2 storey residential development. Hannover Mews itself is a private road. The character of the surrounding area is mixed with a variety of storey heights and architectural styles. The site lies just within the Valley Gardens Conservation Area.
6. Evidence within the application submission suggests that there is little commercial demand for the existing unit and that it has suffered from vandalism and graffiti in recent times. In its current state it detracts from the character of the surrounding Conservation Area. The site is in a sustainable location with good access to nearby facilities and public transport and a residential use would be a beneficial alternative use consistent with Policy SS1 of the Brighton & Hove Draft City Plan Part 1 2012.
7. From a design point of view the limited size of the site dictates a taller building in order to provide a satisfactory level of accommodation. Although it would appear as a detached and narrow fronted 3 storey building, it would take its design references from surrounding buildings and would relate well in terms of scale to the adjacent building on the south east side of Hannover Mews, No 145 Islingword Road. The design would be well proportioned and carefully detailed in order to relate to the character of nearby properties and I note no objections have been raised by the Council's Conservation Officer. I also note that provision is made to retain a small section of historic flint wall adjoining the north west boundary. On detailed points, I agree that a yellow brick would be more appropriate to the area than a red brick and that clarification is required in respect of rainwater goods. However such matters could be controlled through conditions. Because of its Conservation Area location, I have had special regard to the desirability of preserving or enhancing the character or appearance of the area. However in view of the above comments, I am in no doubt that the proposal would enhance the character of this part of the Conservation Area.
8. In view of the proximity of the nearby listed almshouses I have also had special regard to the desirability of preserving the buildings or their setting. In that respect the site is well separated from the almshouses by the adjacent car park, and although the proposed building would be taller than the existing one, I consider that because of the distance involved and the improved townscape advantages, the setting would be preserved.
9. In view of the above, the proposal would be compliant with Policies HE3, HE6, QD1, QD2 and QD3 of the Brighton & Hove Local Plan 2005 (LP) in that it would

enhance the character of the Valley Gardens Conservation Area, would preserve the setting of the nearby listed almshouses, would be well designed and would make efficient use of the site.

Standard of accommodation

10. The proposal would provide a good standard of accommodation for a one bedroom unit, consistent with Policy H03 of the LP. Although no amenity space would be provided as required by Policy H05 of the LP there is open space nearby, as well as the sea front a short distance away. It is also unlikely to be occupied by a family and I therefore consider in this instance it would be acceptable. Similarly no parking is provided on site as recommended by the Council's Supplementary Planning Guidance note 4, but given its sustainable location, the small scale nature of accommodation and the provision of cycle storage I do not consider that would be necessary for this particular proposal. I also note that the Highway Authority has raised no objections in that respect.
11. A noise assessment submitted with the application concluded that the proposal could be satisfactorily mitigated from traffic noise consistent with Policies SU9 and SU10 of the LP. The building is also intended to achieve level 4 of the Code for Sustainable Homes and as such would be consistent with the provisions of Policy SU2 of the LP and the Council's Supplementary Planning Document on sustainable building design. Although a Lifetime Homes Standard could not be achieved in accordance with Policy HO13 of the LP, I agree with the appellant that the constraints of the site make that impractical and that it would be outweighed by other benefits of developing the site as previously indicated. Finally, any potential contamination arising from the nearby substation could be controlled through a suitable condition and would thereby be compliant with Policy SU11 of the LP.

Amenity considerations

12. There would be adequate distance from adjoining residential sites in terms of any potential impact and obscure glazing is proposed on the north west elevation in order to avoid any overlooking into the nearby almshouses. Although concerns have been raised in respect of nuisance from the proposed refuse and cycle store, I do not consider that would be the case given that it would be directly opposite the blank flank wall of No 145 Islingword Road and given the limited extent of accommodation involved. Accordingly the proposal would be consistent with Policy QD27 of the LP in that amenity interests would be protected.

Other matters

13. Representations received from local residents of Hannover Mews appear to welcome the principle of redevelopment of the site but raise concerns about practical difficulties associated with construction and potential blocking of the private road. However such matters could be controlled through consideration of a Construction Management Plan which could be secured through a condition and which I note the appellant is agreeable to.
14. Although Policy QD28 of the LP makes reference to Planning Obligations to secure various objectives, it is not clear from the evidence before me as to whether the current proposal would be applicable in that respect. In any event,

on 28 November 2014, the National Planning Guidance was changed to make it clear that local authorities should not request contributions for affordable housing or tariff style obligations from developments of 10 units or less. In the absence of any information from the Council in respect of that issue I therefore do not consider it would be appropriate in this case.

15. Proposals to deal with Waste Management are set out in the Design & Access Statement and are consistent with Policy SU13 of the LP. I note that the appellant advises that specific details will be provided at a later stage which can be secured through an appropriate condition.

Conclusion

16. The proposed development would provide a good alternative use of the site and in a sustainable location. The proposed design would enhance the character of this part of the Conservation Area and would also preserve the character of the nearby listed buildings. A good standard of accommodation would be provided which would also safeguard living conditions of occupiers of nearby properties. The proposal would thereby be in accordance with the majority of policies in the LP or in those instances where it would not, there are material considerations which outweigh compliance with the policies concerned as set out above.

17. Conditions requiring the development to be built in accordance with the approved plans and for further details of samples, larger scale architectural details, rainwater goods, provision of refuse and cycle provision, sound insulation, confirmation of sustainable code level, a Construction Waste Management Plan, and a contamination study are all necessary in the interests of good planning and to ensure a high standard of design. A condition restricting permitted development rights is necessary having regard to the very limited extent of the site. A condition to ensure windows in the north west elevation are obscure glazed is necessary to protect residential amenity. Finally, a condition requiring a Construction Management Plan is necessary to ensure building works do not prejudice access to, and amenity of, adjoining residential sites.

18. Accordingly, having regard to the reasons and policy considerations set out above and subject to the conditions specified, the appeal should be allowed and planning permission granted.

Kim Bennett

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; 2227/13/01A; 2227/13/02A; and 2227/13/03A.
- 3) Notwithstanding details shown on drawing no 227/13/02A, the development hereby permitted shall not commence until samples and colours of materials (including colour of render paintwork and colourwash) and all rainwater

goods to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 4) The development hereby permitted shall not commence until full details and sample elevations and sections at no less than 1:20 scale of the windows (including cills and reveals), external doors, parapet and stucco/brickwork have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) The refuse and cycle storage areas shown on drawing no 2227/13/02A shall be provided before the development is first occupied and shall thereafter be kept available at all times for their approved use.
- 6) The development hereby permitted shall not commence until full details of sound insulation relating to walls, glazing and ventilation, to accord with recommendations set out in the Noise Impact Assessment Report undertaken by Impact Acoustics dated 12 May 2014 (Report no IMP4316-1), have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to first occupation of the development.
- 7) The residential unit hereby approved shall not be occupied until a final/post construction code certificate issued by an accreditation body confirming that the development has achieved a Code for Sustainable Homes rating of Code Level 4 has been submitted to and approved in writing by the local planning authority.
- 8) The 3 windows in the north west elevation shown on drawing no 2227/13/03A shall be obscured glazed prior to the first occupation of the development hereby permitted and shall thereafter be retained in that form.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended (or any order revoking, re-enacting or modifying that Order), the development hereby permitted shall not be enlarged, extended or otherwise altered.
- 10) The development hereby permitted shall not commence until details of a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The said plan shall include details to demonstrate minimum disruption to adjoining residential properties including how construction shall ensure continued access to Hannover Mews, storage of building materials, hours of operation and any other on site management measures to be adopted. The development shall be carried out in accordance with the approved plan.
- 11) The development hereby permitted shall not be commenced until a Construction Waste Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved plan.
- 12) The development hereby permitted shall not commence until the following has been submitted to and approved in writing by the local planning authority:

- (a) A desk top study documenting all of the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Reports Nos 2 and 3 and BS10175:2001 – Investigation of Potentially Contaminated Sites – Code of Practice.

And unless otherwise agreed in writing by the local planning authority:

- (b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2001.

And unless otherwise agreed in writing by the local planning authority:

- (c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include the nomination of a competent person to oversee the implementation of the works.

Should remedial works be required, the development hereby permitted shall not be occupied until confirmation by a competent person has been submitted to and approved in writing by the local planning authority confirming that the remedial works have been fully implemented in accordance with the approved scheme. Unless otherwise agreed in writing by the local planning authority, such confirmation shall comprise: as built drawings of the implemented scheme; photographs of the remediation works in progress; and certificates or other evidence demonstrating that imported and/or materials left in situ is free from contamination.